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SERVICE DATE - APRIL 26, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 634X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN MONROE
COUNTY, IN

Decided: April 23, 2004

By decision and notice of interim trail use or abandonment (NITU) served on October 17, 2003, the Board granted the petition for exemption filed by CSX Transportation, Inc. (CSXT), for abandonment of a 2.95-mile line of railroad, in CSXT's Western Region, Great Lakes Division, extending from milepost 00Q-219.55 to milepost 00Q-222.50, in Bloomington, Monroe County, IN. The exemption was subject to public use, historic preservation, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for the City of Bloomington, acting by and through its Redevelopment Commission (Bloomington), to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding. The trail use negotiation period ended on April 14, 2004.

On March 9, 2004, Bloomington filed a request for an extension of the NITU for 180 days. Bloomington states that an extension of time is necessary to finalize negotiations. By facsimile filed on April 22, 2004, CSXT concurs in the request to extend the NITU.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for an additional 180 days from April 14, 2004 (until October 11, 2004).¹

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-158 (1987).

It is ordered:

1. Bloomington's request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to October 11, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary